

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FIVE

I.B. 2 - L.D. 1378

An Act to Protect Maine Communities by Enacting the Extreme Risk  
Protection Order Act

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 15 MRSA §393, sub-§1, ¶E-3** is enacted to read:

E-3. Is currently the subject of an extreme risk protection order issued pursuant to Title 25, section 2244 or an emergency extreme risk protection order issued pursuant to Title 25, section 2245, except that the prohibition applies to possession and control, not ownership. Violation of this paragraph is a Class D crime;

**Sec. 2. 15 MRSA §1023, sub-§4, ¶B-2** is enacted to read:

B-2. Set preconviction bail for a defendant alleged to have committed a violation of section 393, subsection 1, paragraph E-3;

**Sec. 3. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2023, c. 465, §1, is further amended by amending subparagraph (24) to read:

(24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; ~~or~~

**Sec. 4. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2023, c. 465, §1, is further amended by amending subparagraph (25) to read:

(25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; ~~and or~~

**Sec. 5. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2023, c. 465, §1, is further amended by enacting a new subparagraph (26) to read:

(26) A violation of an extreme risk protection order issued pursuant to Title 25, section 2244, subsection 3 or an emergency extreme risk protection order pursuant to Title 25, section 2245, subsection 2; and

**Sec. 6. 25 MRSA c. 261** is enacted to read:

CHAPTER 261

## **EXTREME RISK PROTECTION ORDER ACT**

### **§2241. Short title**

This chapter may be known and cited as "the Extreme Risk Protection Order Act."

### **§2242. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Court.** "Court" means a District Court in this State.

**2. Dangerous weapon.** "Dangerous weapon" has the same meaning as in Title 17-A, section 2, subsection 9, paragraph C, including a firearm as defined in Title 17-A, section 2, subsection 12-A.

**3. Extreme risk protection order.** "Extreme risk protection order" means a written order issued pursuant to this chapter that prohibits and enjoins an individual from purchasing, possessing or receiving a dangerous weapon or having or attempting to have custody or control of a dangerous weapon.

**4. Family or household member.** "Family or household member" means a spouse or domestic partner of the respondent, a former spouse or former domestic partner of the respondent, an individual presently or formerly living with the respondent as a spouse of the respondent, a parent of a child of the respondent, an adult sibling of the respondent, an adult child of the respondent, a parent of the respondent or an adult presently living with the respondent.

**5. Law enforcement agency.** "Law enforcement agency" means a state, county, tribal, municipal or University of Maine System law enforcement agency. "Law enforcement agency" does not include a federal law enforcement agency.

**6. Law enforcement officer.** "Law enforcement officer" has the same meaning as in section 2801-A, subsection 5. "Law enforcement officer" does not include a federal law enforcement officer.

**7. Petition.** "Petition" means a petition for an extreme risk protection order filed pursuant to this chapter.

**8. Petitioner.** "Petitioner" means a family or household member, a law enforcement agency or a law enforcement officer who files a petition for an extreme risk protection order pursuant to this chapter.

**9. Respondent.** "Respondent" means an individual named in a petition for an extreme risk protection order filed pursuant to this chapter whose purchase, possession, receipt, custody or control of a dangerous weapon the petitioner seeks to restrain.

### **§2243. Jurisdiction and venue**

**1. Jurisdiction.** The court has jurisdiction over proceedings under this chapter.

**2. Venue.** A proceeding under this chapter must be commenced in the judicial division where the respondent resides or where events that give rise to the petition occurred. If a District Court Judge is not available in the division in which a petition is to be filed requesting an extreme risk protection order under section 2244 or an emergency extreme

risk protection order under section 2245, the petition and any accompanying motion may be presented to any other District Court Judge or to any Superior Court Justice who has the same authority as a District Court Judge to grant or deny the order.

#### **§2244. Extreme risk protection orders**

**1. Petition.** A family or household member, a law enforcement agency or a law enforcement officer may file a petition requesting that the court issue an extreme risk protection order in accordance with this subsection.

A. A petition filed pursuant to this subsection must allege that the respondent poses a significant danger of causing physical injury to the respondent or another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon.

B. A significant danger of causing physical injury to another person may be shown by establishing that:

(1) The respondent has inflicted or attempted to inflict physical injury on another person;

(2) By the respondent's threats or actions, the respondent has placed another person in reasonable fear of physical injury; or

(3) By the respondent's actions or inactions, the respondent has presented a danger to another person in the respondent's care.

The court may consider any additional information the court finds to be reliable, including a statement by the respondent, or relevant information from family or household members concerning the respondent, and any other facts that the court finds to be relevant.

C. A significant danger of causing physical injury to the respondent may be shown by establishing that the respondent has threatened or attempted suicide or has threatened or attempted serious bodily injury.

D. The petition must be supported by an affidavit or affidavits that:

(1) State the specific facts establishing that the requirements in paragraph B or C have been met;

(2) State whether the petitioner knows of any dangerous weapons in the respondent's possession, custody or control and the identity and location of any such weapons, if known;

(3) State whether the petitioner knows of an existing order issued with respect to the respondent under Title 5, section 4655 or Title 19-A, chapter 103 or a similar order issued by a court of competent jurisdiction in the United States or another state, territory, commonwealth or federally recognized Indian tribe; and

(4) Acknowledge that the petitioner is aware that it is a crime to make a false statement under oath in a court document.

E. The court shall provide forms to a petitioner filing a petition or any other necessary documents. The court may not provide assistance in filling out any such forms or in drafting legal documents or provide legal advice to a petitioner. The forms provided by the court under this paragraph must be uniform throughout the State and must

include a summons and an affidavit for an extreme risk protection order. The summons must include a section on which the petitioner may list the places where the respondent may be located or may be available to be served.

F. A filing fee may not be required for a petition filed pursuant to this subsection.

**2. Hearing.** Except as provided in section 2245 with respect to an emergency extreme risk protection order, the court may grant relief only after notice to the respondent and an opportunity for a hearing. The petitioner has the burden of proving by a preponderance of the evidence that the respondent poses a significant danger of causing physical injury to the respondent or another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon.

A. The court shall hold a hearing within 14 days after a petition is filed pursuant to this section. Notice of the hearing must be served pursuant to section 2247 concurrently with the petition and any ex parte order issued pursuant to section 2245. This section does not limit the court's discretion to continue the hearing upon the court's own motion or upon motion of either party.

B. The respondent has the right to be represented by counsel at a hearing. The court may, in its discretion, appoint counsel for an indigent party. The State is responsible for the cost of appointed counsel.

**3. Orders.** The court shall grant a petition and issue an extreme risk protection order if the court finds by a preponderance of the evidence that the respondent poses a significant danger of causing physical injury to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon.

A. The court shall issue an order under this subsection prohibiting the respondent from purchasing, possessing or receiving a dangerous weapon or having or attempting to have custody or control of a dangerous weapon for a period of up to one year. The order must be signed in writing and include the following:

(1) A statement of the grounds for the issuance of the order;

(2) The name and address of the court where any filings must be made, the names of the parties, the date of the petition, the date and time of the order and the date and time the order expires;

(3) A description of how to appeal the order pursuant to section 2251;

(4) A description of the requirements for relinquishment and return of a dangerous weapon under section 2250;

(5) A description of how to request termination of the order under section 2246, including a form for a motion to terminate the order; and

(6) A statement in substantially the following form:

"To the subject of this extreme risk protection order: This order is in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your possession, control or custody as directed in this order. While this order is in effect, you are not allowed to purchase, possess or receive a dangerous weapon; attempt to purchase, possess or receive a

dangerous weapon; or have or attempt to have custody or control of a dangerous weapon. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order. You may seek the advice of an attorney regarding any matter connected with this order."

B. The court shall make either written findings of fact or oral findings of fact on the record. If a court denies a petition filed pursuant to this subsection, the court shall state the reason for the denial.

C. An order issued pursuant to this section must include the following statement: "VIOLATION OF THIS ORDER IS A CRIME AS PROVIDED BY THE MAINE REVISED STATUTES, TITLE 15, SECTION 393, AND MAY ALSO RESULT IN SANCTIONS FOR CONTEMPT PURSUANT TO THE MAINE RULES OF CIVIL PROCEDURE, RULE 66."

#### **§2245. Emergency extreme risk protection orders**

**1. Petition.** In filing a petition under this chapter, a petitioner may request that the court issue an emergency extreme risk protection order. An emergency extreme risk protection order may be issued ex parte, without prior notice to the respondent.

A. A petitioner seeking an emergency ex parte order shall indicate in the petition and affidavit or affidavits that emergency relief is requested because the respondent poses an immediate and significant danger of causing physical injury to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon. An affidavit must include specific facts supporting the statement that the respondent poses an immediate and significant danger.

B. A significant danger of causing physical injury to another person may be shown by establishing that:

(1) The respondent has inflicted or attempted to inflict physical injury on another person;

(2) By the respondent's threats or actions, the respondent has placed another person in reasonable fear of physical injury; or

(3) By the respondent's actions or inactions, the respondent has presented a danger to another person in the respondent's care.

The court may consider any additional information the court finds to be reliable, including a statement by the respondent, or relevant information from family or household members concerning the respondent, and any other facts that the court finds to be relevant.

C. A significant danger of causing physical injury to the respondent may be shown by establishing that the respondent has threatened or attempted suicide or has threatened or attempted serious bodily injury.

D. The court may issue an emergency extreme risk protection order if the petition and affidavit or affidavits present good cause that the respondent poses an immediate and significant danger of causing physical injury to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon.

E. The court shall decide whether to grant or deny the petition and issue the order on the basis of the contents of the petition and the affidavit or affidavits provided. If the petition is granted, the court shall immediately sign the original order, enter on its face the exact date and time it is issued and transmit a copy to the petitioner by reliable electronic means, such as e-mail. Upon issuance of an order, a copy must be served on the respondent pursuant to section 2247.

F. The court may issue an emergency extreme risk protection order by reliable electronic means pursuant to this subsection if requested by the petitioner.

**2. Order.** An order issued pursuant to this section may prohibit for a period of up to 14 days the respondent from purchasing, possessing or receiving a dangerous weapon or having or attempting to have custody or control of a dangerous weapon. This section does not limit the court's discretion to continue the final hearing and extend the order upon the court's own motion or upon the motion of either party.

A. The order must be in writing and include the following:

(1) A statement of the grounds for the issuance of the order;

(2) The name and address of the court where any filings must be made, the names of the parties, the date of the petition, the date and time of the order and the date and time the order expires;

(3) The date and time of the hearing under subsection 3, paragraph A when the respondent may appear to contest the order before the court. The opportunity to contest the order must be scheduled as soon as reasonably possible, but may not be more than 14 days after the date of the issuance of the order unless extended upon the court's own motion or upon the motion of either party;

(4) A description of the requirements for relinquishment and return of dangerous weapons under section 2250; and

(5) A statement in substantially the following form:

"To the subject of this emergency extreme risk protection order: This order is in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your possession, control or custody as directed in this order. While this order is in effect, you are not allowed to purchase, possess or receive a dangerous weapon; attempt to purchase, possess or receive a dangerous weapon; or have or attempt to have custody or control of a dangerous weapon. A hearing will be held on the date and time noted above to determine if an extreme risk protection order should be issued. Failure to appear at that hearing may result in the court making an order against you that is valid for up to one year. You may request an extension of the hearing date. You may seek the advice of an attorney regarding any matter connected with this order. An attorney may be appointed at the discretion of the court to represent you if you cannot afford one."

B. An order issued pursuant to this section must include the following statement: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY THE MAINE REVISED STATUTES, TITLE 15, SECTION 393, AND MAY ALSO RESULT IN

SANCTIONS FOR CONTEMPT PURSUANT TO THE MAINE RULES OF CIVIL PROCEDURE, RULE 66."

If a court denies a petition filed pursuant to this subsection, the court shall state the reason for the denial, which may include either written findings of fact or oral findings of fact on the record.

**3. Duration.** The duration of an emergency extreme risk protection order issued pursuant to this section is as follows.

A. Unless the petition is voluntarily dismissed pursuant to paragraph B, the court shall hold a hearing within 14 days after the issuance of an emergency extreme risk protection order to determine if an extreme risk protection order should be issued. If not voluntarily dismissed, the emergency extreme risk protection order expires when the court grants or denies a petition for an extreme risk protection order in accordance with section 2244, subsection 3.

B. The petitioner may voluntarily dismiss a petition filed pursuant to this section at any time prior to the hearing required under paragraph A if the petitioner determines the respondent no longer poses an immediate and significant danger of causing physical injury to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon. If the petitioner voluntarily dismisses the petition pursuant to this paragraph, the court shall vacate the emergency extreme risk protection order and direct a law enforcement agency in possession of a dangerous weapon belonging to the respondent to return it to the respondent consistent with section 2250.

**§2246. Termination and renewal motions**

**1. Motion to terminate.** A motion to terminate an extreme risk protection order issued pursuant to section 2244 is subject to the provisions of this subsection.

A. The respondent may file a motion to terminate an extreme risk protection order issued pursuant to section 2244 or an order renewed under subsection 2. A motion to terminate may not be filed more than once during the effective period of the order.

B. The motion to terminate an extreme risk protection order and notice of a hearing on the motion must be served on the petitioner pursuant to section 2247.

C. The court shall grant a motion to terminate an extreme risk protection order if it finds by clear and convincing evidence that the respondent no longer poses a significant danger of causing physical injury to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon.

D. An order on a motion to terminate an extreme risk protection order must state the reason for the denial or granting of the motion.

E. The court shall provide forms to a party filing a motion to terminate an extreme risk protection order. The form provided by the court must be uniform throughout the State.

**2. Motion to renew.** A motion to renew an extreme risk protection order issued pursuant to section 2244 is subject to the provisions of this subsection.

A. A petitioner may file a motion to renew an extreme risk protection order issued pursuant to section 2244 or renewed pursuant to this subsection for an additional period of up to one year. The motion must be accompanied by an affidavit and must be filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit must comply with the requirements of section 2244, subsection 1.

B. The court shall hold a hearing within 14 days after a motion to renew an extreme risk protection order under paragraph A is filed. Notice of the hearing must be served pursuant to section 2247. The court may extend an extreme risk protection order at the time of expiration, upon motion of the petitioner, for additional time as the court determines necessary to hold a hearing on a motion to renew.

C. The court may grant relief only after notice to the respondent and an opportunity for a hearing. The court may grant the motion and renew an extreme risk protection order for an additional period of up to one year if it finds by a preponderance of the evidence that the respondent continues to pose a significant danger of causing physical injury to the respondent or to another person by purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon. An order on a motion to renew must comply with the requirements of section 2244, subsection 3.

D. The court shall provide forms to a party filing a motion to renew an extreme risk protection order. The form provided by the court must be uniform throughout the State.

#### **§2247. Service**

**1. Form of service; transmittal.** A petition, emergency extreme risk protection order, extreme risk protection order or notice of a hearing issued pursuant to this chapter must be served by a law enforcement officer in accordance with the Maine Rules of Civil Procedure. A court that issues an order under this chapter shall promptly transmit the order electronically or by other means to a law enforcement agency for service and shall deliver a copy to the appropriate law enforcement agency.

**2. Service on respondent.** A respondent who attends a hearing held under section 2244, 2245 or 2246 at which an emergency extreme risk protection order or extreme risk protection order is issued and who receives notice from the court at the hearing that the order has been issued is deemed to have been served. Regardless of whether the court has previously notified the respondent of the order, the court shall transmit the order for service on the respondent by a law enforcement agency.

**3. Performance of service.** A petition, emergency extreme risk protection order, extreme risk protection order or notice of a hearing issued pursuant to this chapter must be served in a manner calculated to ensure the safety of the parties. Law enforcement agencies must have a written policy that prioritizes methods of service that do not involve advance notification of a request for an emergency extreme risk protection order to the respondent. The law enforcement agency shall make a good faith effort to serve process expeditiously. Notice of an emergency extreme risk protection order must be served as soon as practicable, but no later than 24 hours after issuance of the order. The law enforcement officer making service shall file a return of service with the court stating the date, time and place at which the order was delivered personally to the respondent.

**4. Service of termination and renewal.** A motion to terminate or renew an extreme risk protection order must be served by a law enforcement officer in accordance with the Maine Rules of Civil Procedure. A notice of hearing may be provided in accordance with the Maine Rules of Civil Procedure.

**§2248. Procedure**

**1. Fee.** A fee may not be charged for forms or for filing a petition, motion or other request for relief under this chapter.

**2. Rules; other actions not barred.** Proceedings commenced under this chapter must be in accordance with the Maine Rules of Civil Procedure. A proceeding under this chapter is in addition to any other available civil or criminal remedies. This chapter may not be construed to be applicable to actions under Title 19-A, chapter 103.

**3. Assistance by law enforcement.** Law enforcement agencies shall assist in carrying out the intent of this chapter.

**§2249. Enforcement and entering of orders**

**1. Law enforcement officers and agencies.** Law enforcement officers are authorized to enforce orders issued pursuant to this chapter. A law enforcement agency shall adopt a written policy on the enforcement of this chapter and the handling of extreme risk protection orders.

**2. Failure to comply with order.** A person who knowingly violates an extreme risk protection order issued pursuant to section 2244 or renewed pursuant to section 2246 or an emergency extreme risk protection order issued pursuant to section 2245 is subject to sanctions for contempt pursuant to the Maine Rules of Civil Procedure, Rule 66 and prosecution pursuant to state law, including, but not limited to, Title 15, section 393.

**3. Notice to State Bureau of Identification; national background check.** The court clerk shall forward a copy of an extreme risk protection order or emergency extreme risk protection order issued pursuant to this chapter the same day the order is issued to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. Upon receipt of the copy of the order, the Department of Public Safety, Bureau of State Police, State Bureau of Identification shall enter the order into the Federal Bureau of Investigation, National Instant Criminal Background Check System, any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of dangerous weapons and any computer-based criminal intelligence information system available in the State used by law enforcement agencies. The order must remain in each system for the duration of time it is in effect, and the law enforcement agency shall promptly remove expired or terminated orders.

**4. Penalty for submitting false information.** A person who submits materially false information in support of or in opposition to a petition for an extreme risk protection order under this chapter, knowing that material information in the petition or the affidavit is false or that the petition or affidavit is submitted with the intent to harass, is guilty of a Class C crime.

**5. Warrantless arrest.** Notwithstanding any provision of law to the contrary, an arrest for criminal violation of an order issued pursuant to this chapter may be without warrant upon probable cause whether or not the violation is committed in the presence of a law enforcement officer. The law enforcement officer may verify, if necessary, the existence

of the order, including by telephone or radio communication with a law enforcement agency with knowledge of the order.

#### **§2250. Relinquishment of dangerous weapon**

**1. Relinquishment by respondent.** A respondent who is required to relinquish a dangerous weapon in the respondent's possession, custody or control under an extreme risk protection order issued pursuant to this chapter, upon service of the order, shall immediately relinquish the dangerous weapon to the law enforcement officer serving the order. A respondent notified by the court at a hearing is required to immediately cooperate with a law enforcement officer to come into compliance with the provisions of the order.

**2. Warrant authorizing search and seizure.** If a law enforcement agency demonstrates that there is probable cause to believe that the respondent will not relinquish a dangerous weapon, a court may issue a search warrant authorizing a law enforcement agency to seize any dangerous weapon at any location at the time of the issuance of the extreme risk protection order. A court may also issue a search warrant if a law enforcement agency demonstrates that there is probable cause to believe that any dangerous weapon has not been relinquished by the respondent.

**3. Treatment of seized dangerous weapon.** A law enforcement agency that takes possession of a dangerous weapon shall store the dangerous weapon at the law enforcement agency's facility or a tribal, regional or state public safety facility.

**4. Lawful sale of dangerous weapons not affected.** This section may not be construed to prohibit the lawful sale of a dangerous weapon by the lawful owner.

**5. Release of dangerous weapon within 3 days.** A law enforcement agency may release to the respondent a dangerous weapon relinquished pursuant to an extreme risk protection order issued pursuant to this chapter upon expiration of the extreme risk protection order in effect at the time of the request by the respondent and completion of a background check using the Federal Bureau of Investigation, National Instant Criminal Background Check System in a manner consistent with federal law. The dangerous weapon must be returned within 3 business days of the request.

**6. When return prohibited.** Notwithstanding any provision of this chapter to the contrary:

A. A dangerous weapon may not be returned to the respondent if the respondent's possession of the dangerous weapon is prohibited by state or federal law; and

B. A dangerous weapon may not be returned pursuant to this section if the dangerous weapon is evidence in a pending criminal matter.

#### **§2251. Appeals**

An extreme risk protection order issued pursuant to this chapter is a final order for the purposes of appeal.

#### **§2252. Data and reporting**

**1. Annual report; submission to Legislature.** The State Court Administrator, acting at the direction of the Chief Justice of the Supreme Judicial Court, shall prepare an annual report on and relating to the application of this chapter by the courts. By January 1, 2027 and annually thereafter, the State Court Administrator shall prepare and submit the report

to the joint standing committee of the Legislature having jurisdiction over civil rights matters.

**2. Report requirements.** The report required by this section must contain the following:

- A. The number of petitions filed for an extreme risk protection order;
- B. The number of petitions filed that included a request for an emergency extreme risk protection order;
- C. The number of extreme risk protection orders issued and the number denied;
- D. The number of emergency extreme risk protection orders issued without notice and the number denied;
- E. The number of extreme risk protection orders that have been voluntarily dismissed by the petitioner;
- F. The number of emergency extreme risk protection orders entered without notice that have been voluntarily dismissed by the petitioner;
- G. The number of motions filed to renew an extreme risk protection order;
- H. The number of extreme risk protection orders that have been renewed;
- I. The number of motions filed to terminate an extreme risk protection order;
- J. The number of motions filed to terminate an extreme risk protection order that resulted in termination of an order prior to the original expiration date;
- K. To the extent ascertainable from available state court data, the number of respondents subject to an extreme risk protection order who, within 30 days after entry of the order, have been charged with a criminal offense, including the nature of the criminal offense, whether the offense was a violation of the extreme risk protection order and the disposition or status of the offense; and
- L. Demographic data regarding the individuals who have been petitioners and respondents in actions for extreme risk protection orders.

**Sec. 7. Department of Public Safety to obtain federal funding; report.** By January 1, 2027, the Department of Public Safety shall report to the joint standing committee of the Legislature having jurisdiction over civil rights matters the status of the state-level process currently under way to obtain federal funding for storing dangerous weapons in the custody of state, county and municipal law enforcement agencies.